

BEFORE
THE PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA
DOCKET NO. 2018-211-T

I, CARL E. BELL, hereby certify that I have, on this 7th day of August 2018, filed the **Answer and Motion to Dismiss**, in the above docket, with the Public Service Commission of South Carolina and served the parties listed below by Electronic and U.S. Mail:

Jenny R. Pittman, Esquire
jpittman@regstaff.sc.gov
Office of Regulatory Staff
1401 Main Street, Suite 900
Columbia, SC 29201

Kevin Marra
kevin.marra@gmail.com
515 Robert Daniel Drive, Apt. 2201
Daniel Island, SC 29492



Carl E. Bell
Terreni Law Firm, LLC
1508 Lady Street
Columbia, South Carolina 29201
Telephone (803) 771-7228
Fax (803) 771-8778
carlbell@terrenilaw.com

Columbia, South Carolina
August 7, 2018

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2018-211-T

Kevin Marra,
Complainant/Petitioner

v.

JMS Worldwide, LLC,
Defendant/Respondent.

ANSWER
AND MOTION TO DISMISS

Defendant, JMS Worldwide, LLC (“JMS” or “Company”) answers the above captioned Complaint of Kevin Marra as follows:

- 1). JMS denies each allegation not specifically admitted herein.
- 2). Defendant denies “stealing” from Plaintiff. Defendant denies overcharging Plaintiff. JMS will show it charged its tariffed rates, and that while an ORS review found JMS made minor mistakes, it concluded that Mr. Marra was actually undercharged. ORS’s findings are attached as Exhibit A to this Answer.
- 3). Defendant denies fabricating hours worked. JMS accurately accounted for 14 hours and 30 minutes of time spent packing, loading boxes, building crates, and storing Mr. Marra’s household goods in its warehouse.
- 4). Defendant denies Cameron Bright intimidated Plaintiff’s wife. JMS will show Mr. Bright and its employees behaved professionally. Mr. Marra’s wife, acting on his behalf,

agreed to the JMS's charges for packing and moving his household goods as reflected on the Bill of Lading attached as Exhibit B to this Answer.

5). Defendant denies that Plaintiff was forced to sign a credit authorization. JMS will show Mr. Marra freely and voluntarily signed a credit authorization and the parties mutually released one another from liability by way of the agreement attached as Exhibit C to this Answer (the "Settlement Agreement").

6). Defendant denies threatening Plaintiff.

7). Defendant denies Plaintiff is entitled to the relief requested and denies all allegations in the prayer for relief.

FOR A FIRST AFFIRMATIVE DEFENSE
(Settlement and Release)

8). All previous responses are incorporated as if restated verbatim.

9). On or about May 8, 2018, JMS, Mr. Marra and his wife, Marines Marra, entered into the above-referenced Settlement Agreement.

10). In the Settlement Agreement, Mr. and Mrs. Marra agreed to fully release JMS from "*any and all debts, claims, actions, causes of action, all other claims, suits, damages, contracts or agreements and/or demands whatsoever, in law or in equity*".

11). JMS has honored all of its obligations under the Settlement Agreement.

12). The Commission should dismiss this Complaint because it has already been resolved between the parties.

FOR A SECOND AFFIRMATIVE DEFENSE
(Jurisdiction)

13). All previous responses are incorporated as if restated verbatim.

14). JMS suggests the Commission lacks personal jurisdiction over JMS and subject-matter jurisdiction in this controversy.

15). The Commission has jurisdiction over motor vehicle carriers operating vehicles “used in the business of transporting persons or property for compensation over any improved highway in this State”. S.C. Code § 58-23-10(4).

16). After agreeing to pay JMS for its services as provided in the Settlement Agreement and retrieving his goods from JMS’s warehouse, Mr. Marra instructed his credit card company not to pay JMS for its services.

17). Following Mr. Marra’s instructions, the credit card company did not remit the agreed upon payment to JMS.

18). JMS has foregone seeking payment for its service from Mr. Marra.

19). JMS has not been, and will not be, compensated for transporting household goods in this transaction. Therefore, in this transaction, the Commission lacks jurisdiction over JMS. The Commission also lacks jurisdiction over this transaction, which involves transportation of household goods without compensation.

THEREFORE, Defendant prays the Commission dismiss the Complaint with prejudice and grant such other relief as it deems just and proper.

Respectfully submitted,

Digitally signed by Charles L.A. Terreni
Location: Columbia, S.C.
Date: 2018-08-07 14:18-04:00

Date: August 7, 2018

Charles L.A. Terreni
TERRENI LAW FIRM, LLC
1508 Lady Street
Columbia, South Carolina 29201
Tel. (803) 771-7228
charles.terreni@terrenilaw.com
SC Bar. No. 15235

Joseph K. Qualey
QUALEY LAW FIRM
23 Broad Street
Charleston, SC 29401
joequaley@qlawfirm.com
SC Bar No. 4603

EXHIBIT A

1401 Main Street, Suite 900
Columbia, SC 29201



Phone: (803) 737-0800
www.regulatorystaff.sc.gov

TOM ALLEN
DIRECTOR
SAFETY, TRANSPORTATION and EMERGENCY RESPONSE

June 12, 2018

Mr. Kevin Marra
kevin.marra@gmail.com
843-564-8303

Subject: Household Goods Moving Complaint against Johnson's Moving & Storage, LLC

Dear Mr. Marra,

The Office of Regulatory Staff ("ORS") has concluded its investigation regarding your complaint against Johnson's Moving & Storage, LLC ("JMS" or "The Company"). When investigating a consumer complaint, ORS considers the complaint in the context of the Public Service Commission of South Carolina's ("PSC") rules and regulations. ORS reviewed the correspondence provided by you and the company to verify that JMS applied the rates and charges according to their tariff approved by the PSC. ORS also reviewed the bills of lading for your move to verify that the insurance valuation options were communicated by Johnson's Moving & Storage, LLC and signed by you, the shipper.

Upon review of all statements and supporting documents, ORS has arrived at the following conclusions:

1) Valuation Insurance

ORS's investigation concluded that the valuation clause was signed. 10 S.C. Code Ann. Regs. 103-159 (Contents of Bills of Lading)

2) Tariff Charges

The investigation by ORS identified your move out of 515 Robert Daniel Drive, Apartment 2215, Daniel Island, SC 29492 into your storage destination of 2818-A Industrial Avenue, North Charleston, SC 29405 was improperly calculated. ORS' review of the Bill of Lading indicates an *undercharge* of \$49.00. A review of the storage and labor fees indicates an *overcharge* of \$11.75. 10 S.C. Code Ann. Regs. 103-198 (Variations in Charges Prohibited)

3) Bill of Lading

The investigation by ORS discovered that Johnson's Moving & Storage, LLC did issue a completed bill of lading to you after the move. 10 S.C. Code Ann. Regs. 103-158 (Issuance of Bills of Lading)

4) Insurance

ORS's investigation identified that Johnson's Moving & Storage, LLC has current proof of bodily injury, property damage and cargo insurance on file as required.

ORS also examined specific items of concern identified by you during the move. Below are your concerns and ORS' conclusions:

1) The credit card authorization was given under duress

PSC Statutes and Regulations do not govern credit card payments.

2) There was no written quote by JMS and verbal estimates were not accurate

PSC Regulations do not require an estimate or quote for services to be given to the customer.

3) JMS offered the customer free storage for the first 30 days and \$99 per month thereafter

JMS charged \$399 for Storage in Transit for April and May. These charges are consistent with the approved tariff.

4) JMS pledged to provide an itemized packing list for clearing customs for the freight forwarder

PSC Statutes and Regulations do not govern interstate or international moves.

5) The Customer was charged \$3520.26 on their credit card

ORS calculated the total charges for the move to be \$5957.25.

- a) \$2971 for residential move
- b) \$798 for two months storage
- c) \$1542.25 for day one of the storage move
- d) \$199 Bulky Items/Safe
- e) \$150 for debris/trash removal
- f) \$297 for day two of the storage move to Smooth Move

6) The Customer was charged \$150 Transport Fee

The charge for Trash/Debris removal after the move out of the apartment was mis-labeled as "Transport Fee". The charge is in the JMS approved tariff under Line# 2.9.

7) The Customer was charged for Excessive Carry and Elevator or Stair Carry

ORS interviews with JMS discovered that where the moving crew was asked to park the truck for loading at the apartment complex would block the residence garages. The apartment manager asked the crew to move to the closest available parking spot. According to the bill of lading, there were no charges for an excessive carry charge for carrying items over 50 feet. The bill of lading does have charges for "stair carry" and "elevator carry". According to tariff item# 2.3, JMS may charge for a "flight of stairs, elevator service, and/or distances greater than 50 feet per item".

8) The Customer was charged excessive hourly charges

The vehicle report for the move shows that the truck was out 8 hours and 55 minutes. Once the moving truck came back to the storage facility, the moving crew had to build the crates for storage to prepare for international shipment, unload the truck, and then load the crates for a total of 14 hours and 30 minutes.

9) Contents of Bill of Lading are not in compliance with Commission Regulations

ORS' review of the bill of lading determined that the date of shipment by the carrier is written multiple times as "4/19". The Declaration of Valuation is printed on the bill of lading with a value of \$0.60 per pound. The valuation was signed by the customer with a date of 4/18/18 for \$0.60 per pound. In the interview, JMS stated that when the workers leave the facility, the shippers name and dates are auto filled. JMS believed the move date was originally for 4/19/18. Weight is not required when a company's tariff uses rates calculated on a straight time basis per 10 S.C. Code Ann. Reg. 103-159 stating "...lawfully applicable rates and charges shown separately by classification".

10) The Customer was overcharged for packing materials

The \$199 charge on the bill of lading for "full pack materials additional" was for the packing and loading of a safe under the Bulky Item Charge, Tariff Item# 2.1. Under the packing section of the bill of lading, there is an overcharge of \$1.00 per Medium Box and \$30.00 per Packing Paper Roll. However, the complete audit of the bill of lading revealed an undercharge of \$49.00.

11) Promotional items do not contain the PSC certificate number

Under SC Code 39-15-910, a business card and magnet with company information that are given to prospective customers cannot be considered as advertising like a billboard or newspaper advertisement.

In conclusion of the audit, there were several issues that were addressed with JMS regarding the bill of lading. There was an undercharge of \$49.00 and the shipper's credit card information was written on the bill of lading. JMS was also advised to label their items on the bill of lading so that customers can understand the charges.

If you are not satisfied with the response from the ORS' complaint investigation, you have the right to file your complaint with the PSC. To file a petition with the PSC, you must complete the PSC's complaint form which is available online at www.psc.sc.gov. PSC regulation S.C. Code Ann. Regs. 103-824 (2012) require the following items to be contained in a consumer complaint:

A. Contents of Complaints. A written complaint filed with the Commission shall contain the following information:

- (1) The name, address, e-mail address, and telephone number of the person making the complaint and of his authorized representative, if he is represented.
- (2) The name and address of the person about whom the complaint is made.
- (3) A concise and cogent statement of the factual situation surrounding the complaint. If a complaint relates to an act, rule, regulation or order administered or issued by the

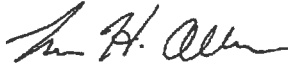
Commission, or to a provision in a tariff or contract on file with the Commission, the act, rule, regulation, order, tariff or contract should be specifically identified in the complaint.

(4) A concise statement of the nature of the relief sought.

Individuals do not need to have legal representation to represent themselves before the PSC, but a corporation, partnership, partnership, limited liability company, or group of people or association must be represented legal counsel. The PSC provides a guide on its website at the following web address: <http://www.psc.sc.gov/Pages/Pro-Se-Litigant/index.html> for individuals representing themselves.

If you have any questions, please contact me directly at 803-737-0974 or via e-mail at tallen@regstaff.sc.gov.

Sincerely,



Tom Allen

Cc: Richard Johnson President – Johnson's Moving & Storage, LLC
Thomas McGill-ORS
James McAlister- ORS
Chad Campbell- ORS

EXHIBIT B

SHIPPER Kevin MARIA CONSIGNED TO MARINPS MARIA
 ADDRESS 515 Robert Daniel Drive ADDRESS 2318-1
 CITY CHS ELEV. 11/21 FLOOR 1 ELEV. 11/21 TEL. 843-564-8304
 STATE SC CITY CHS STATE SC CITY CHS STATE SC
 PREFERRED DELIVERY DATE(S) 9/10AM

SHIPPER REQUESTS NOTIFICATION OF ACTUAL WEIGHT & CHARGES TO PARTY SHOWN BELOW

ALL CHARGES ARE TO BE PAID IN CASH, MONEY ORDER OR CERTIFIED CHECK BEFORE CARRIER DELIVERS OR TAKES POSSESSION UNLESS INDICATED BY CARRIER. REFUND WILL NOT BE ACCEPTED.

NOTIFY 9/10AM TEL.

ADDRESS

RECEIVED SUBJECT TO ROUTING

GENERAL CONDITIONS:

29492

INVOICING

GOV'T. B/L No. 5424-18133378-7559

BILL CHARGES TO 11/21 CVC (S)

29492 SIS ROBERT DANIEL

THIS SHIPMENT WILL MOVE SUBJECT TO THE RULES AND CONDITIONS OF THE CARRIER & TARIFF. ALL TERMS PRINTED OR STAMPED HEREON OR ON THE REVERSE OF THE CARRIER'S RECEIPT SHALL BE RELEASED HEREOF. SHIPPER HEREBY RELEASES THE ENTIRE SHIPMENT TO A VALUE NOT EXCEEDING \$100.00. THE CARRIER'S LIABILITY FOR LOSS AND DAMAGE WILL BE \$50.00 PER LB. PER ARTICLE UNLESS A GREATER AMOUNT IS SPECIFIED BY THE SHIPPER.

SIGNED

Shipper

Date

TIME RECORD

START 4:15 M.H.
 FINISH 4:45 M.H.
 AM AM Customers Initials
 PM PM Customers Initials

JOB HOURS

TRAVEL TIME

TOTAL HOURS

TRANSPORTATION SERVICES HOURLY CHARGE

1 VAN(S) 3 STRAIGHT TIME MEN HOURS AT \$ PER HR.

VAN(S) OVERTIME SERVICES MEN HOURS AT \$ PER HR.

TRAVEL TIME HOURS at \$

OTHER CHARGES

OTHER CHARGES

PACKING

INSURANCE

TOTAL

DATE DELIVERED 4-18-18

DRIVER CA

EXPEDITED SERVICE ORDERED BY SHIPPER DELIVERED ON OR BEFORE

161

GROSS

TRANSPORTATION

ADD'TL. LIAB. CHG. (PER SHIPMENT CHARGE)

ADD'TL. TRANS. (SURCHARGE) N/A ☐ ORIG. ☐ DEST.

EXTRA PICKUPS OR DELIVERIES: NO. BY

AT N/A

EXCESSIVE CARRY 99 ELEVATOR 99 STAIRS

PIANO HANDLING: OUT IN HOIST

ADD'TL. LABOR 3 MEN FOR 5.5 MAN HOURS

WAREHOUSE HANDLING

TRANSIT STORAGE: FROM TO

S.I.T. VALUATION CHARGE

13.5 LABOR HOURS

1 HOUR TRAVEL TIME

APPLIANCE SERVICES

OTHER CHARGES STAIRS

CARTAGE: TO WHSE ☐ FROM WHSE ☐ ORIG ☐ DEST ☐ MI

BARRELS 5 CARRY SMALL BOXES

CARTONS 35 JACKING 35 LESS THAN 112

CARTONS 25 MEDIUM 112

CARTONS 2 12015 PAPER 112

CARTONS 2 12015 SHINK 112

CARTONS 2 12015 SHINK 112

CARTONS 2 12015 SHINK 112

CRIB MATTRESS ADDITIONAL FULL PACK MATERIALS

WARDROBES (USE OF) INVENTORY

MATTRESS CARTON NOT EXCEEDING 39 x 75

MATTRESS CARTON NOT EXCEEDING 54 x 75

MATTRESS CARTON EXCEEDING 54 x 75

CRATES

MIRROR CARTONS

TOTAL PACKING

TOTAL CHARGES ☐ CHGE ☐ PPD ☐ C.O.D. ☐ G.B.L.

PREPAYMENT: COLLECTED BY BALANCE DUE

BALANCE DUE: COLLECTED BY 3,782.00

DELIVERY ACKNOWLEDGEMENT: SHIPMENT WAS RECEIVED IN GOOD CONDITION EXCEPT AS NOTED ON INVENTORY AND SERVICES ORDERED WERE PERFORMED.

REC'D FOR STORAGE

WAREHOUSE

BY CA PER 4-18-18

(WAREHOUSEMAN'S SIGNATURE)

DATE

SO #50723

MILBURN PRINTING

800-899-6680

www.milburnprinting.com

1-ORIGINAL - NOT NEGOTIABLE

EXHIBIT C

STATE OF SOUTH CAROLINA) GENERAL MUTUAL RELEASE IN
 FULL)
 COUNTY OF BERKELEY)

WHEREAS, Kevin Or Marines Marra, undersigned, engaged the services of JMS Worldwide, LLC d/b/a Johnson's Moving & Storage (also referred to as "JMS") to move personal belongings, furniture and household wares from their residence at Daniel Island South Carolina , Charleston, South Carolina, to JMS storage Facility, and

WHEREAS, the above described household items are more fully identified and described on a Uniform Household Goods Bill of Lading and Freight; and

WHEREAS, per the agreement of the parties, the above described household goods were moved by JMS to a storage facility located at 2818-A Industrial Avenue, North Charleston, South Carolina; and

WHEREAS, the relationship of the aforesaid parties has eroded such that it is no longer practical for these parties to continue a professional relationship; and

WHEREAS, both parties are desirous of terminating their relationship with one another;

THEREFORE, the parties agree that JMS will provide access to the storage contents at 2818-A Industrial Avenue at a mutually agreed upon time, no later than May 09, 2018, At 12:00 PM Eastern Standard Time, to allow Kevin Or Marines Marra (and/or a representative/agent of the Marr's) to obtain and remove their belongings from said storage facility. JMS agrees to transfer the appropriate storage units in entirety to Smooth Move Truck on site on aforementioned, day and time. Kevin Marra and Marines Marra

agree to remove their belongings in a reasonable amount of time, not to exceed four (4) hours after they are granted access to the storage, and agree to leave behind and in neat order all moving blankets utilized as part of this move.

JMS agrees to waive any further costs or fees in consideration of the sums of money JMS has already been paid by Kevin Marra and Marines Marra and in consideration of the Marras fully releasing JMS from any and all claims regarding the moving and/or storage of the Marras' belongings, including releasing any claims regarding the condition of the belongings. The parties agree to the below release, incorporated herein by reference:

KNOW ALL MEN BY THESE PRESENTS, that the foregoing recitals are correct and incorporated herein and JMS Worldwide, LLC d/b/a Johnson's Moving & Storage, undersigned, for and in consideration of payment of the total sum of \$5,920.00 already paid in hand via credit card ending in 7559 by Kevin and Marines Marra, also undersigned, the receipt and sufficiency whereof is hereby acknowledged, and in consideration of the all the parties providing this full general mutual Release of any and all claims, each of the parties do for themselves, and their heirs, successors, assigns, affiliates, executors and administrators, hereby remise, release, acquit and forever discharge each other, their agents, servants, employees, heirs, successors and assigns, insurers, attorneys, subsidiaries, and all other persons, firms, corporations, associations and partnerships, whether herein named or referred to or not, and who together with the above-named, may be jointly or severally liable to the undersigned, of and from any and all claims, demands, debts, rights, actions, causes of action and costs, and all known and unknown, foreseen and unforeseen damages and the consequences thereof resulting

which heretofore have been, or which hereinafter may be sustained as a result of, or in any way connected with breach of contract, fraud, economic loss, negligence, gross negligence, and/or any and all claims arising out of or related to any contract or agreement between the parties or the moving and/or storage of the personal belongings, furniture and household wares of Kevin and Marines Marra. .

JMS Worldwide, LLC d/b/a Johnson's Moving & Storage Kevin and Marines Marra, their heirs and assigns, do forever fully release and agree to hold harmless each other, their agents, heirs, insurers, subsidiaries, successors and assigns, from any and all debts, claims, actions, causes of action, all other claims, suits, damages, contracts or agreements and/or demands whatsoever, in law or in equity, which have existed, now exist, or may later come into existence against them arising out of or in any way related to the relationship and business dealings of the aforesaid parties.

In consideration of the above, these parties also agree that this settlement is the compromise of a disputed claim and that the parties do not admit any liability and specifically deny liability of any nature or kind, and further declare and represent that no promise, inducement or agreement except as herein expressed have been made, and this Release contains the entire agreement between the parties hereto, and the terms of this Release are contractual and not a mere recital. Kevin and Marines Marra agree to execute documentation of the move out inventory and an insurance release.

This Release may be executed in counterparts, and each counterpart, when executed, shall have the efficacy of a signed original. Photographic, electronic and facsimiled copies of such signed counterparts may be used in lieu of the originals for any purpose. Furthermore, each party has cooperated and participated equally in the drafting

and preparation of this Release, and any construction or interpretation of this Release shall not be construed against any party on the basis that the party was the drafter.

The parties hereto have read carefully the foregoing Release and know the contents therein and have signed the same of their own free will and accord, each party has further discussed the implications of signing this Release with their respective attorney (should each party so wish) and understands that it is a complete discharge of all persons, firms, and corporations of any present or future liability.

IN WITNESS WHEREOF, the undersigned parties have hereunto set their hand and seal this 8 day of May, 2018, in the presence of the below named witnesses.

(Remainder of Page Intentionally Left Blank – Signature Page to Follow)

I HAVE READ THE FOREGOING RELEASE, AGREE WITH ALL TERMS AND
CONDITIONS CONTAINED THEREIN, AND I HAVE DISCUSSED THIS RELEASE
WITH COUNSEL, WITH WHOM I WARRANT I AM SATISFIED

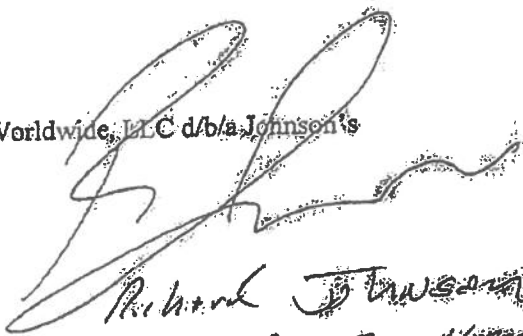
WITNESS:

Moving & Storage

JMS Worldwide, LLC d/b/a Johnson's

By:

Its:


Richard Johnson
5-8-18 H/Johnson

WE HAVE READ THE FOREGOING RELEASE, AGREE WITH ALL TERMS
AND CONDITIONS CONTAINED THEREIN, AND WE HAVE DISCUSSED THIS
RELEASE WITH COUNSEL, WITH WHOM WE WARRANT WE ARE SATISFIED.

WITNESS:

KEVIN MARRA 5-8-2018 2pm

MARINES MARRA 5-8-2018 2pm.